

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
ELECTRONIC
MEETING

JANUARY 2, 2001

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Townsend at 10:25 a.m. on Tuesday, January 2, 2001, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

James Braun
Randal Giannetto
Darrell Hanson
Rozanne King
Kathryn Murphy, Vice-Chair
Gary Priebe
Terrance Townsend, Chair
Rita Venner, Secretary

ADOPTION OF AGENDA

Motion was made by James Braun to approve the agenda as presented. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Rita Venner to approve the minutes as presented. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Interim Director Lyle Asell welcomed the Commissioners and said the Legislators would be in town starting the following week. He said he expects the focus this session to be on education, child abuse, healthcare issues, as well as the Governor's proposal for Accountability in Government Act. Because of these issues he expects it to be a challenging year from a legislative standpoint therefore the Department has put together a relatively small legislative package.

CONTRACT FOR EDUCATION OF LOCAL FLOOD PLAIN MANAGEMENT

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval will be requested for a contract for the preparation of a handbook and related training course materials for local flood plain management officials. Funding for the contract will be provided by the appropriations from the Rebuild Iowa Infrastructure Fund (SF 2453) as part of the "Initiative on Improving Our Watershed Attributes" (SF 2371)

The Department is currently evaluating proposals received in response to a request for proposals and it is anticipated that a contractor will be selected at the time of the Commission meeting. The name of the selected contractor and the amount of the contract will be presented to the Commission for their approval at the December meeting.

Mike Valde said the infrastructure bill appropriated up to \$200,000.00 for floodplain education so the Department requested proposals from contractors for the development of education materials for local floodplain programs. He said Jack Riessen from the Water Quality Bureau would present the results.

Jack Riessen said the Department received four proposals and an internal selection committee reviewed them. The recommendation is to enter into a contract with French and Associates, a firm out of Park Forest, Illinois for a stated maximum amount of \$99,660.00. This would be a cost reimbursement contract for a six-month period. The contract would included the development of a detailed floodplain management reference book, a ready reference, which would be shortened version of the detailed reference book, a compact disc with all of the material on it and a workshop packet that would be used to develop a workshop for local officials. He said he had worked with the principal of this firm in the past with excellent results and is recommending the approval of the contract.

Discussion regarding the criteria for the selection followed.

Rozanne King asked Mr. Riessen to describe the goals of the Department for this project.

Jack Riessen said the Department's goal is to make available to local floodplain managers a handbook. He said many of the cities that are now administering their own floodplain management regulations do not have fulltime administrators, and do not do a lot of permitting, so they need a ready reference manual to refer to when they have questions. The manual would also form a basis for a local floodplain managers training course that the Department plans to hold a couple of times a year. He said the contract deliverables would include a hard copy and an electronic copy. The Department would use another portion of the \$200,000.00 to reproduce and distribute those materials.

Kathryn Murphy asked what the proposed completion date was.

Jack Riessen said the Department expects everything to be completed by June 30, 2001.

Brief discussion followed regarding local floodplain management, floodplain insurance, and the specific details of the contract.

Interim Director Lyle Asell said up until that last couple of years, Iowa has had the highest average annual flood damage of any state in the United States for the previous fifteen years. There are some very good laws on the books but over time as the Department has downsized the

floodplain staff we have lost the ability to implement the laws and people have forgotten the laws exist or know very little about them. If you look at the damages from those floods, the predominate damage is to agriculture, which speaks to the effectiveness of those regulations. This is an effort to help prevent future damages through information and education on floodplain realities as well as the regulations.

Motion was made by Rita Venner to approve the contract. Seconded by Kathryn Murphy. Motion carried unanimously.

CONTRACT APPROVED

2001 LEGISLATION

Lyle Asell, Interim Director presented the following item:

In preparation for the 2001 General Assembly, Division Administrators were requested to submit legislative proposals for the Interim Director's approval. Listed below are the proposals for the Waste Management and Environmental Protection Divisions.

1. Transfer Station Tonnage Fee
2. Animal Feeding Operations

In addition to these there will be an additional item to amend Iowa Code to include the Land Quality Bureau in the Waste Management Assistance Division with a new Division name of Land Quality and Waste Management Assistance Division.

Transfer Station Tonnage Fee (HSB673 from 2000 Session)

This bill is to correct language in 455B.310 to include a tonnage fee on solid waste passing through transfer stations, including mobile transfer stations. The tonnage fee is already applied to waste bound for disposal in an Iowa landfill and would not be paid more than once.

The original tonnage fee language was included in the 1987 Groundwater Protection Act. Currently, landfill operators pay a tonnage fee on every ton of garbage buried in a landfill. At the time of the 1987 Groundwater Protection Act, few if any transfer stations were operational and were not recognized in the law. The use of transfer stations for out-of-state disposal has increased with the consolidation of private waste management companies. Haulers who use transfers stations for out-of-state disposal of garbage do not pay tonnage fee, creating a financial preference for out-of-state disposal. Local solid waste agencies are responsible for reducing all garbage generated in the area, whether it is disposed in Iowa or not. Local reduction and recycling efforts are not supported by solid waste passing through transfer stations for out-of-town disposal.

This change eliminates the financial inequity that exists because programs paid for by the tonnage fee benefit all generators and all waste. The generators using out-of-state disposal currently avoid supporting these programs.

Reorganization of the Environmental Protection and Waste Management Assistance Divisions.

This bill will make changes to Chapter 455 to rename the Waste Management Assistance Division to the Land Quality and Waste Management Assistance Division thereby reflecting the addition of the Land Quality Bureau to the newly named division.

In May of this year, the Land Quality Bureau of the Environmental Protection Division was combined with the Waste Management Assistance Division to improve service delivery to customers and internal coordination. The division name change is a result of the need to properly identify the duties and responsibilities of the division.

Animal Feeding Operations

This bill makes changes to the current law regarding animal feed operations. The changes include a ban to construction of AFO's in the 100 year floodplain, providing the department the flexibility to increase separation distances from various areas and structures which are environmentally sensitive, the inclusion of phosphorus as well as nitrogen as a factor for deciding land application rates of manure, expansion of the liability of certain contractor operations beyond the owner of the facility, requiring periodic updates of manure management plans every three or more years, require all operations that are not currently permitted to be registered with the state and authorize a fee for the registration to cover the cost of additional resources to work with the smaller facilities, and the authority for the department to develop a monitoring strategy and protocols for hydrogen sulfide in populated areas near confined feeding operations and meat processing facilities.

The provisions in this bill along with the continued federal presence will allow the department a better oversight of new facilities.

On-Site Wastewater System Loan Program

This bill request is to correct language in SF2371, passed during the 2000 Legislative Session, to give the department actual authority to establish a program to assist with upgrading on-site wastewater systems outside corporate city limits.

Interim Director Lyle Asell reviewed the proposed legislation.

Discussion followed regarding the regulation of Hydrogen Sulfide.

Rozanne King asked what the Department's plan for regulating the inclusion of phosphorus as well as nitrogen as a factor for deciding land application rates of manure. She wanted to know if it would require testing of soils or banning of application in areas that have high levels of phosphorous.

Lyle Asell said the Department anticipates a phased approach. He said that according to Iowa State's research, phosphorous levels have been increasing in soils since the 1950's and as they get into higher concentrations they become soluble. The research also shows the principal way that phosphorous gets into waters is through adhesion to soil particles making erosion a problem and that there is no yield response above a certain level of phosphorous. He said there are some soils that are very high in phosphorous so simply banning it would not work. The Department

anticipates implementing a phased time period to try to adjust phosphorous levels to a specified goal.

Discussion followed regarding phosphorous.

Rita Venner asked about the expansion of the liability of certain contractor operations beyond the owner of the facility.

Lyle Asell said the Department is proposing that when there is a contractor/grower situation, the responsibility would be shared. Currently the contractor has no responsibility from the environmental standpoint.

Discussion followed regarding the current laws for contractor/growers.

Gary Priebe asked if the new lagoon being built in Harcourt was being built in the 100-year floodplain.

Mike Valde said he was unsure on the specifics of that lagoon but if it was in the 100-year floodplain then it would be required to meet the minimum elevation requirements.

Gary Priebe asked what size facility the Department was planning to require registration from.

Lyle Asell said current law goes down to 300 animal units or pollution of the waters of the state. He said the pork producers passed a resolution a couple of years ago, which would include all producers regardless of size. The Department however is planning to target the larger facilities of over 1000 units.

Discussion followed regarding the economic impact of phosphorous application and the specific details of the registration proposed fee.

Jim Braun asked for additional detail on the proposed legislation for On-Site Wastewater System Loan Program.

Lyle Asell said this was part of the Eye on Iowa water initiatives from last year, which would create a revolving loan fund to pay for on site waste treatment systems in rural Iowa. However when the Department put the rules together to implement the program it was found that we did not have the authority needed to establish a revolving fund. This proposed legislation would grant that authority.

Lengthy discussion followed regarding the Bottle Bill.

Motion was made by Terrance Townsend that the Environmental Commission strongly endorses the current bottle redemption bill and encourages expansion in the area of fees and what is covered under the bill. Seconded by Gary Priebe.

Kathryn Murphy expressed concerned about how to proceed to ensure clarity of the Commissions position.

Deputy Director Larry Wilson said there are two parts of the Code governing this discussion, one part of the Code, in Chapter 2, directs the individual departments of state government to submit legislation. "Departments and agencies of state government shall at least forty-five days prior to convening each session submit copies to the Legislative Services Bureau proposed legislative, joint resolutions, which the department desire to be considered by the general assembly." In Chapter 455B of the Code also says, "These are the duties of the Commission, make a concise annual report to the Governor and the General Assembly, which report shall contain information relating to the accomplishments and status of the programs administered by the department and include recommendations for legislative action which may be required to protect or enhance the environment or to modernize the operation of the department..." Mr. Wilson said at issue on this particular bill is two points, first the department's position, which has already been described to the Commission, and second, clearly under 455B, the Commissioner's have the authority to construct proposals that they want to take to the Legislature. Deputy Director Wilson said from what he has heard, the Commission has a consensus if not unanimous consent that they are in favor of supporting the bottle bill and seeing an expansion of it. He said that was all that was needed for the Commissioners to let legislators know their position on this proposal. He said even though it is different from the Department's position, 455B of the Iowa Code gives the Commission the authority to construct legislative proposals to send over to the legislature.

Terrance Townsend suggested this item be put on the January 16th agenda for further discussion and approval.

Additional discussion followed.

Chairperson Terrance Townsend said the Commission would now need to take action on the 2001 Legislation item as presented.

Motion was made by Lisa Davis Cook to approve the 2001 Legislation as presented. Seconded by Jim Braun. Motion carried unanimously

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Chairperson Terrance Townsend called for public participation.

ITEMS FOR THE NEXT MEETING

Chairperson Terrance Townsend said the Commissioners should have received a packet from Larry Wilson with names of Legislators to contact for the coffee on January 17, 2001 and to please let him know if they had not.

Deputy Director Larry Wilson said this is what we have done in past years, the Commission will meet on the 16th, and will host a coffee for the Legislators at 7:30 on the morning of the 17th. He said the Natural Resource Commission will also be there to present their legislative proposals.

Darrell Hanson said he will need to leave around 12:30 on the 16th.

ADJOURNMENT

Motion was made by James Braun to adjourn. Seconded by Kathryn Murphy. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Townsend adjourned the meeting at 11:55 a.m., Tuesday, January 2, 2001.

Lyle W. Asell, Interim Director

Terrance Townsend, Chair

Rita Venner, Secretary

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